

REFERENCE TITLE: fuel taxes; exemption; Navajo reservation

State of Arizona
Senate
Fifty-first Legislature
Second Regular Session
2014

SB 1461

Introduced by
Senators Begay, Bradley, Gallardo, Landrum Taylor: Dalessandro, Hobbs;
Representative Pierce J

AN ACT

AMENDING SECTION 28-5610, ARIZONA REVISED STATUTES; RELATING TO MOTOR FUEL TAXES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 28-5610, Arizona Revised Statutes, is amended to
3 read:

4 **28-5610. Exemptions**

5 A. The following are exempt from motor vehicle fuel and use fuel taxes
6 imposed by section 28-5606 and aviation fuel taxes imposed by section
7 28-8344:

8 1. Motor fuel for which proof of export is available in the form of a
9 terminal-issued destination state shipping paper or bill of lading and that
10 is either:

- 11 (a) Exported by a supplier who is licensed in the destination state.
12 (b) Sold by a supplier to a distributor for immediate export.

13 2. Motor fuel that was acquired by a distributor, as to which the tax
14 imposed by this article or section 28-8344 has previously been paid or
15 accrued and that was subsequently exported by transport truck by or on behalf
16 of the distributor in a diversion across state boundaries properly reported
17 to the department. If diverted by a distributor, the distributor shall
18 perfect the exemption by filing a refund application with the department
19 within six months after the diversion.

20 3. **EXCEPT AS PROVIDED IN PARAGRAPH 9 OF THIS SUBSECTION**, motor vehicle
21 fuel or use fuel that is sold within an Indian reservation to an enrolled
22 member of the Indian tribe who is living on the Indian reservation
23 established for the benefit of that Indian tribe and that is used by the
24 enrolled member for the enrolled member's own benefit. This exemption does
25 not apply to sales within an Indian reservation by an Indian or Indian tribe
26 to non-Indian consumers or to Indian consumers who are not members of the
27 Indian tribe for which the Indian reservation was established or to use fuel
28 used to operate motor vehicles for a commercial purpose outside of the
29 reservation on highways in this state. For the purposes of this paragraph,
30 "Indian" means an individual who is registered on the tribal rolls of the
31 Indian tribe for whose benefit the Indian reservation was created.

32 4. Motor vehicle fuel or use fuel used solely and exclusively as fuel
33 to operate a motor vehicle on highways in this state if the motor vehicle is
34 leased to or owned by and is being operated for the sole benefit of an Indian
35 tribe for governmental purposes only.

36 5. Motor fuel that is moving in interstate or foreign commerce and
37 that is not destined or diverted to a point in this state.

38 6. Motor vehicle or aviation fuel that is sold to the United States or
39 an instrumentality or agency of the United States.

40 7. Taxable use fuel that has been accidentally contaminated so as to
41 be unsalable as highway fuel as proved by proper documentation.

42 8. Dyed diesel fuel, including fuel used by either of the following:

- 43 (a) A farm tractor or implement of husbandry designed primarily for or
44 used in agricultural operations and only incidentally operated or moved on a
45 highway.

1 (b) A road roller or vehicle that is all of the following:
2 (i) Designed and used primarily for grading, paving, earthmoving or
3 other construction work on a highway.

4 (ii) Not designed or used primarily for transportation of persons or
5 property.

6 (iii) Incidentally operated or moved over the highway.

7 **9. MOTOR VEHICLE FUEL OR USE FUEL THAT IS SOLD WITHIN THE NAVAJO
8 RESERVATION.**

9 B. A use class vehicle shall pay the use fuel tax for light class
10 motor vehicles prescribed by section 28-5606, subsection B, paragraph 1 if
11 the vehicle is a truck and satisfies all of the following:

12 1. Is at least twenty-five years old.

13 2. Has been issued a historic vehicle license plate pursuant to
14 section 28-2484.

15 3. Is not used as a commercial vehicle.

16 C. Notwithstanding subsection A, paragraph 8 of this section, the
17 following are not exempt from use fuel taxes imposed by section 28-5606:

18 1. A vehicle that was originally designed for the transportation of
19 persons or property and to which machinery is attached or on which machinery
20 or other property may be transported.

21 2. A dump truck.

22 3. A truck mounted transit mixer.

23 4. A truck or trailer mounted crane.

24 5. A truck or trailer mounted shovel.

25 D. Except as provided in subsection E of this section, a person who
26 claims an exemption pursuant to this section shall perfect the exemption by
27 claiming a refund pursuant to section 28-5612.

28 E. Subject to sections 28-5645 through 28-5649, dyed diesel fuel is
29 exempt from use fuel taxes at the time of sale.